

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 7/21/08 has been received and made of record. As claims 1, 10 and 12 have been amended, and claims 13-16 have been added.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 13-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. More specifically, the specification does not provide support for newly added claims 13-16 since nowhere in the specification does it recite that the treatment fluid dispensing layer detects stretching or a rise in temperature.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 5-10 remain rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,122,554 ("Stager"). Note the rejections in the Office action of 3/20/08, which are incorporated herein. Applicant should note that the additional claim language added by the amendment of 7/21/08 still reads on the Stager patent. Specifically, the impervious layer of Stager overlies the treatment layer (note Fig. 2). As to the activation trigger, it is inherent in both the structure and function of the absorbent layers that once impregnated, the lotion can be dispensed from the absorbent layers onto the user's hand upon the application of pressure thereon.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 2 and 12 remain rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,927,316 ("Faries, Jr. et al."). Note the rejections in the Office action of 3/20/08, which are incorporated herein. Applicant should note that the additional claim language added by the amendment of 7/21/08 still read the combined Stager and Faries, Jr. et al. patents.

### ***Response to Arguments***

8. Applicant's arguments filed 7/21/08 have been fully considered but they are not persuasive. More specifically, applicant argues that Stager does not teach or suggest having two layers, a fluid impervious layer, and a treatment layer dispensing layer secured to and underlying the fluid impervious layer wherein the treatment fluid dispensing layer dispenses treatment fluid upon an activation trigger as recited in independent claim 1. The examiner disagrees. Col. 2, lines 55-59 of Stager recites the following:

"The lining is characterized by superposed first and second lotion absorbent layer which are preferably uniformly impregnated with a cosmetic lotion 24."

It is inherent in both the structure and function of the absorbent layers that once impregnated the lotion can be dispensed onto the user's hand upon the application of pressure thereon. Furthermore, col. 3, line 56-col. 4, line 26 discloses how the impervious layer is secured to the absorbent layers (20, 22). Thus, since all limitations are either explicitly or inherently implied, Stager anticipates applicant's invention as presently recited.

Applicant's arguments with respect to Faries, Jr. et al. and Brewster are based upon the argument that Stager does not teach or suggest the invention of claim 1. Thus, since the examiner concludes that Stager anticipates at least independent claim 1, then the arguments that Faries, Jr. et al. and/or Brewster does not cure the deficiencies of Stager are moot.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (571) 272-

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4796. The examiner can normally be reached on Wednesday to Friday, from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco, can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kim M. Lewis/  
Primary Examiner  
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Kml  
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